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CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JORGE GUADARRAMA,

Petitioner,

vs.

LARRY SMALL, Warden,

Respondent.

Case No. 09-CV-2544 BEN (POR)

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

Concurrently herewith, the Court entered judgment denying Jorge Guadarrama's Petition for a Writ of Habeas Corpus ("Petition"). For the reasons set forth below, Mr. Guadarrama is hereby **DENIED** a certification of appealability¹ as to all claims asserted in his Petition.

A certificate of appealability ("COA") is authorized "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The applicant must meet the "substantial showing" standard with respect to each issue he or she seeks to raise on appeal.

Lambright v. Stewart, 220 F.3d 1022, 1024 (9th Cir. 2000).

"The issue of whether to grant a COA 'becomes somewhat more complicated where, as

¹ See Rule 11(a), 28 U.S.C. foll. § 2254 ("The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant."); 28 U.S.C. § 2253; Fed. R. App. P. 22(b) (noting that, effective December 1, 2009, district courts must issue or deny a certificate of appealability when it enters a final order adverse to the applicant).

1 here, the district court dismisses the (claims) based on procedural grounds.” Lambright, 220 F.3d
2 at 1026 (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). In that situation, this Court “must
3 decide whether ‘jurists of reason would find it debatable whether the petition states a valid claim of
4 the denial of a constitutional right’” and “whether ‘jurists of reason would find it debatable
5 whether the district court was correct in its procedural ruling.’” Id.

6 Here, the Court finds that Petitioner was not denied a constitutional right. Reasonable
7 jurists would not debate that finding, nor would they debate the correctness of the Court’s ruling
8 that Petitioner’s parole moots his challenge to his prison disciplinary proceedings. Slack, 529 U.S.
9 at 484; Lambright, 220 F.3d at 1026.

10 Accordingly, Petitioner is hereby **DENIED** a certificate of appealability.

11 **IT IS SO ORDERED.**

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13 Dated: March 7, 2011

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15 THE HONORABLE ROGER T. BENITEZ
16 UNITED STATES DISTRICT JUDGE
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